

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.981 of 2017  
and  
C.M.P.No.17122 of 2017

Royal Sundaram Alliance Insurance Company Ltd.,  
Vellore. .... Appellant/2<sup>nd</sup> Respondent

vs.

1.S.Venugopal .... 1<sup>st</sup> Respondent/Petitioner  
2.J.Padma Sekar .... 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 26.10.2016 made in M.C.O.P.No.7 of 2014 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Vellore at Tirupattur.

For Appellant : Mrs.C.Harini  
for N.Vijayaraghavan  
for M/s.M.B.Gopalan Associates

For respondent-1 : M/s.PA.Sudesh Kumar

Respondent-2 : No appearance

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Tribunal at Rs.4,84,543/- with interest at the rate of 7.5% p.a, the appellant / Insurance Company is before this Court.

2. The brief facts of the case are that on 04.07.2011 at about 9.15 hours, the first respondent/claimant herein was proceeding in his motorcycle bearing Registration No.TN-24-B-7902 as rider on the South Usman Road, Chennai and when he reached near MRF Tyre shop, the driver of the lorry bearing Registration No.TN-23-J-1748 belonging to the second respondent herein and insured with the appellant, driving the same in a rash and negligent manner without any signal or indicator,

suddenly turned the lorry towards the left side and hit against the claimant's vehicle. On account of the same, the claimant fell down, sustains grievous injuries and he was taken to the Government hospital for treatment. Thereafter, he took treatment in various private hospitals and became permanently disabled. An FIR came to be registered under Sections 279 and 337 IPC at Tiruppattur Town Police Station in Crime No.652 of 2011. Claiming that the appellant and the second respondent herein are jointly and severally liable to pay compensation, the first respondent herein has filed a claim petition before the Tribunal claiming a sum of Rs.7,00,000/-. Based on the materials available on record, the Tribunal has awarded a sum of Rs.4,84,543/-. Aggrieved against the same, this appeal was preferred by the appellant/Insurance Company.

3.The learned counsel for the appellant/insurance company submitted that the award passed by the Tribunal is against law and probabilities of the case. He further submitted that the Tribunal has erred in rejecting the evidence of the appellant and accepted the evidence of the claimant alone. He further submitted that the Tribunal rejected the evidence of the driver of the lorry, which is supported by an FIR. He further submitted that the quantum of compensation awarded by the Tribunal is excessive and not justified as per law.

4. Per Contra, the learned counsel for the first respondent/claimant has submitted that the Tribunal has taken into consideration each and every aspect and has awarded the compensation which is nothing but just. He further submitted that the contents of Exs.P1 and P2 were taken note of by the Tribunal and accordingly it has fastened the negligence on the lorry driver and hence, interference of the same is uncalled for. He further submitted that Ex.P10 Medical bills itself works out to Rs.3,00,543/-, and hence, it cannot be stated that the award is excessive.

5.This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

6.At the outset, it has to be pointed out that the Tribunal has taken note of Exs.P1 and P2 and observed that the duty is always cast-upon the driver of the heavy vehicle to drive with more care, rather than light vehicle. The Tribunal has also taken note of the final report and the acquittal of the lorry driver against the charges levelled. The Tribunal has also taken note of Ex.P2-Accident Register and has stated that the claimant was hit by the lorry, while he was riding his two wheeler. Ample observations, after analyzing the evidence and documents on record, were made by the Tribunal. Hence, this

Court cannot unsettle the settled things. Further, the Tribunal has considered Ex.P5-driving licence, Ex.P7-investigation report and Ex.P11 freight receipt and has observed that the negligence was only on the part of the driver of the lorry who drove the vehicle in a rash and negligent manner. In such view of the matter, without any supporting documents by the appellant herein, it cannot be contended to state that the driver of the lorry was not at all at fault. Hence, the findings on the negligence by the Tribunal are confirmed as such.

7.As far as the quantum of compensation awarded by the Tribunal is concerned, it has to be noted that a sum of Rs.3,00,543/- is supported by the Medical Bills. The other heads awarded by the Tribunal are Transportation expenses at Rs.4,000/-, Extra nourishment at Rs.5,000/- and Pain and sufferings at Rs.25,000/-. The Tribunal has also awarded a sum of Rs.1,50,000/- towards Grievous Injuries. To arrive at such quantum, the Tribunal has taken note of Ex.P5-Driving license and Ex.P8-Radiology report and Ex.P9-Photo and Ex.P10-Medical bills and Ex.P12-Discharge summary and Ex.P14-Original Disability Certificate. Apart from the said documents, the Tribunal has also relied upon the latest judgments on the issues and has ultimately arrived at the aforesaid quantum, which in the considered view of this Court cannot be said on the higher side. Hence, the quantum of compensation awarded by the Tribunal is also confirmed as such.

8. In such view of the matter, the Civil Miscellaneous Appeal preferred by the Insurer fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed. Six weeks time from the date of receipt of the copy of this order is hereby granted to the appellant to deposit the compensation amount as awarded by the Tribunal after deducting the amount already deposited. On such deposit being made, the Tribunal is directed to transfer the compensation amount to the Savings Bank Account of the claimant / first respondent herein through RTGS, within one week thereafter.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Srk

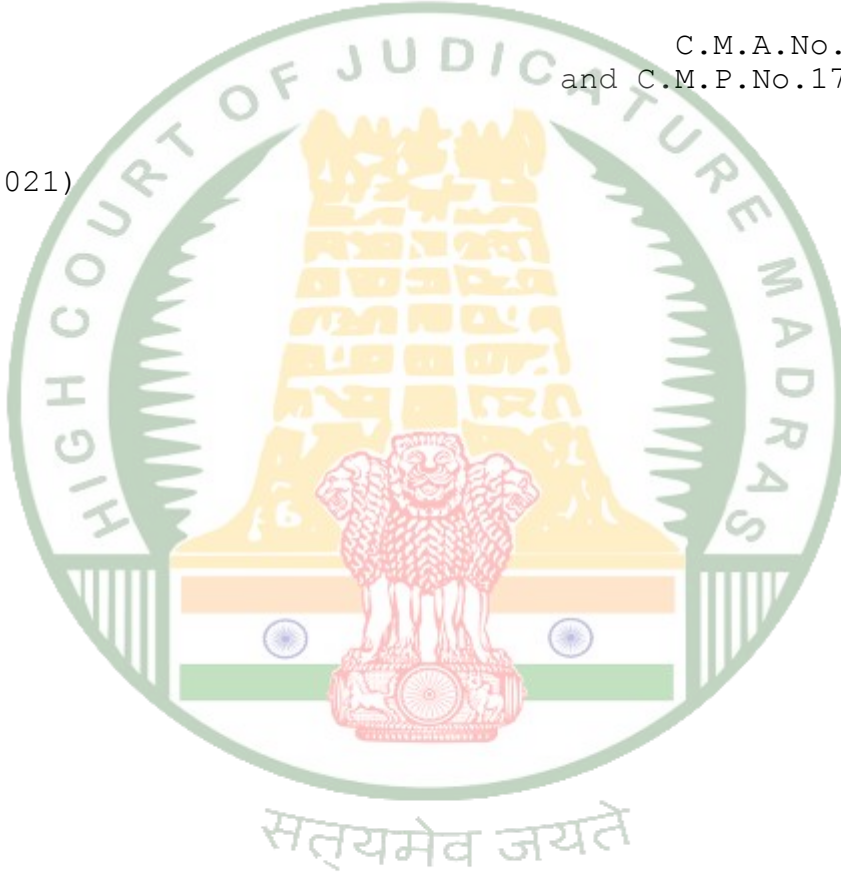
To

1. Motor Accidents Claims Tribunal,  
III Additional District Court,  
Vellore at Tirupattur
2. The Section Officer,  
V.R.Section,  
High Court, Madras.

+1cc to Mr.PA.Sudesh Kumar, Advocate, S.R.No. 25961

C.M.A.No.981 of 2017  
and C.M.P.No.17122 of 2017

JP (CO)  
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